

BEFORE THE STATE HOARD OF EQUALIZATION
OF THE STATE OF CALIFORNIA

In the Matter of the Appeal of)
DOROTHY J. ACKWORTH)

For Appellant: Dorothy J. Ackworth, in pro. per.

For Respondent: Bruce W. Walker
Chief Counsel

Kathleen M. Morris
Counsel

O P I N I O N

This appeal is made pursuant to section 18594 of the Revenue and Taxation Code **from the** action of the Franchise Tax Board **on** the protest of Dorothy J. Ackworth against a proposed assessment of additional personal income tax in the amount of \$257.00 for the year 1976.

Appeal of-Dorothy J. Ackworth

The sole issue presented is whether appellant qualified as a head of household in 1976.

On her 1976 personal income tax return, appellant filed as head of household, naming one of her children as the qualifying dependent. Appellant was married but had separated from her husband in February 1976 and continued to live apart from him until February 1977, when Mr. Ackworth returned to appellant's home. Respondent denied the **claimed** head of household status because appellant's husband lived with her for part of 1976. However, respondent allowed appellant an additional **dependency** credit for her child.

Section 17042 of the Revenue and Taxation Code provides that in order to claim head of household status, **an** individual must be unmarried and maintain a home which is the principal place of abode of a qualifying dependent. Clearly, appellant did not meet the requirements of this statute in 1976 because she was still married. **Nor** did appellant qualify **for** head of household status under Revenue and Taxation Code section 17173, which extended the benefits of that status to certain married individuals for taxable years beginning on or after **January** 1, 1974. Although appellant maintained a home for her children and provided all **of their** support, she did not live apart from her husband 'for the "entire taxable year." (Rev. & Tax. Code, § 17173, subd. (c)(3), emphasis added; see also Appeal of Jean E. Davidson, Cal. St. Bd. of Equal., Dec. 5, 1978.)

Appellant argues that she is entitled to file as a head of household because she was the sole provider for her family. While we understand appellant's feelings in this regard, we must enforce the law as it is clearly written. (See Appeal of Donald M. McAllister, Cal. St. Bd. of Equal., Dec. 5, 1978.) Accordingly, respondent's action in this matter must be sustained.

Appeal of Dorothy J. Ackworth

O R D E R

Pursuant to the views expressed in the opinion of the board on file in this proceeding, and good cause appearing therefor,

IT IS HEREBY ORDERED, ADJUDGED AND DECREED, pursuant to section 18595 of the Revenue and Taxation Code, that the action of the Franchise Tax Board on the protest of Dorothy J. Ackworth against a proposed assessment of additional personal income tax in the amount of \$257.00 for the year 1976, be and the same is hereby sustained.

Done at Sacramento, California, this 7th day of
March , 1979, by the State Board of Equalization.

William B. Bennett Chairman
Philip J. Lee , Member
Robert J. Kelly , Member
_____, Member
_____, Member